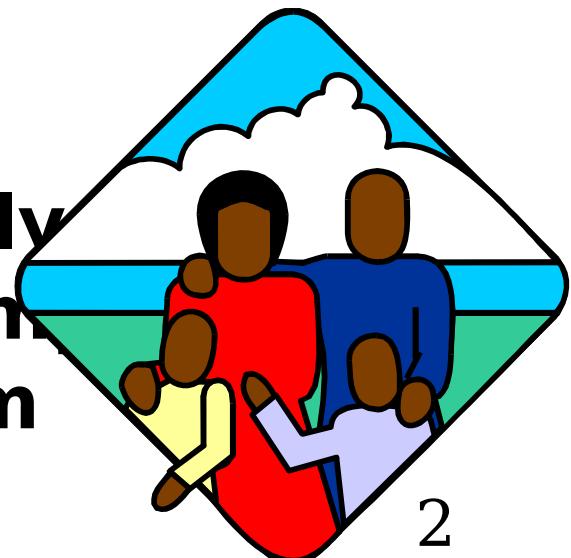


ATTENDANCE AND LEAVE

OBJECTIVES

- ◆ Be able to describe the requirements for the various leave categories;
- ◆ Be able to identify the eligibility criteria for the Federal Medical Leave Act (FMLA);
- ◆ Be able to effectively apply requirements and resolve employee leave situations in classroom exercises and case studies.



ATTENDANCE AND LEAVE



WHY IMPORTANT?

- **Highly valued benefit by the employee.**
- **Number one disciplinary offense in DA is**
- **FMLA disciplinary cases are on the rise.**
- **Absenteeism impacts mission accomplishment**

EMPLOYEE RESPONSIBILITIES



- **Know leave procedures and follow them.**
- **Be at work unless they have approved leave.**
- **Ensure they have sufficient leave balance before requesting leave.**
- **Plan leave in advance whenever possible.**

SUPERVISORY RESPONSIBILITIES



- Know the administrative leave policies and inform employees.
- Encourage leave planning.
- Monitor balance and usage.
- Control abuse and document problems.
- Take necessary corrective action.

LEAVE PROGRAMS AND CATEGORIES

Annual Leave

Sick Leave

Leave

Leave W/O Pay

Funeral Leave

Court Leave

Bone Marrow or Organ Donor Leave

Military Leave

Family and Medical

AWOL

Home Leave

Excused Absence

Leave Transfer Program

Compressed and Flexible Work Schedules

Reference: www.opm.gov/oca/leave/index.htm

Reference: www.federalhandbooks.com

ANNUAL LEAVE

- **Leave accrual:**
 - less then 3 yrs = 4 hours**
 - 3 to 15 yrs = 6 hours**
 - 15 yrs or more = 8 hours**
- **Employee entitlement and right.**
- **Annual leave is subject to prior approval.**
- **Management prerogative - when and how**
- **Can annual leave be denied?**
- **Retroactive approval may be given.**

LEAVE WITHOUT PAY (LWOP)

- Not an employee entitlement
- Requirements for granting LWOP:
 - Fulfill Family Responsibilities
 - Increased Job Ability
 - Protect/Improve Employee Health



LEAVE WITHOUT PAY (LWOP)

- Considerations:

- Value to Government
- Encumbrance of Position
- Loss of Services
- Obligation to Return to Duty



ABSENCE WITHOUT OFFICIAL LEAVE (AWOL)



- Not authorized or approved leave.**
- For which a request has been denied.**
- 15 minute increments.**
- Document time & attendance cards.**
- Counsel employee each time/may require**
- May be basis for disciplinary action.**
- Charged only during regular tour of duty.**

ADMINISTRATIVE LEAVE & EXCUSED LEAVE

Administrative Leave:

- post closing/delayed opening.
- Commander is approving official.
- emergency conditions, beyond the control of

Excused Leave:

- Supervisor may grant up to one hour.
- tardiness
- “unavoidable” absence
- ~~discretion of supervisor~~

Note: may not be used for early dismissal

MOST COMMON REASONS FOR ADMINISTRATIVE ABSENCE



- **Blood donations**
- **Employment interviews**
- **EEO functions**
- **Union sponsored training**
- **Weather**
- **Special events**
- **Group Dismissals**

Quick Review of the Leave Rules

--leave must be requested.

--leave procedures must be followed when requesting leave.

--leave is scheduled in advance.

--the supervisor is the leave approving official (includes acting supv).

--properly requested annual leave can only be denied for mission reasons.

Approve or Disapprove?

- **Both May Frank and Bea Hummel, your only two processing clerks have requested annual leave for the same afternoon. When both employees are off at the same time no one is available to process purchase orders or payment vouchers.**

Approve or Disapprove?

► Jerry is one of your team leaders for the branch. He requests to have the afternoon off. You ask why. Jerry tells you its such a nice day and the Yankees have a home game. You tell Jerry that as a team leader he has to set an example and just can't leave during the middle of the day to go watch a ball game...based on the short notice and Jerry's reason, you deny his request.

--Is this an adequate reason to deny his annual leave request?

Approve or Disapprove?

► Hy Phillips, an attorney for Dew Newell, calls you to let you know that Dew was arrested for alleged shoplifting in a nearby department store an hour ago. Mr. Phillips requests several hours of annual leave for Dew in order to cover the time that it will take to arrange for Dew's release on bail.

Approve or Disapprove?

► Tom Jones call's you early Monday morning requesting leave. He has an established pattern of calling in on Mondays. Tom also has a problem coming to work on time. You have counseled him on several occasions. When you inform Tom that he has no leave annual (zero balance), he responds by saying, "I have no suspenses due today and I'm caught up with all my work so just put me down for LWOP."

SICK LEAVE AND FMLA OVERVIEW

- Procedures
- Types of Sick Leave
- Family Medical Leave Act (FMLA)



SICK LEAVE PROCEDURES

- **Employees responsible for requesting sick leave generally within 2 hours of beginning of start of shift (check CBA).**
- **Supervisor should establish call-in procedures and make sure all employees are aware of it - reminders!**



SICK LEAVE PROCEDURES

- **Doctor's certification required for absences over 3 days continuous duration.**
- **Supervisor should set up system to keep track of attendance**



TYPES OF SICK LEAVE

- **Personal Medical Needs;**
- **Sick Leave to Care for a Family Member (also referred to as Sick Leave for Bereavement Purposes); and**
- **Sick Leave to Care for a Family Member with a Serious Health Condition.**

NOTE: Sick Leave for adoption purposes has some unique rules

PERSONAL SICK LEAVE



- **Incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;**
- **Receives medical, dental, or optical examination or treatment; or**
- **Jeopardize the health of others by his or her presence on the job because of exposure to a communicable**

PERSONAL SICK LEAVE (cont)

- Employee arranges for or attends a family member's funeral.
- Employee exposed to communicable disease.
- When employee adopts a child.



SICK LEAVE TO CARE FOR A FAMILY MEMBER

Up to 104 hours (13 days) of sick leave each leave year to:

- Care for family member (illness, injury, pregnancy, childbirth, and medical/dental/optical appointments); or**
- Attend the funeral of a family member.**
- Full-time employees may use 40 hours of sick leave initially for these purposes; additional 64 hours may be used only if employee maintains a balance of at least 80 hours of sick leave.**

SICK LEAVE TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION

- Up to 12 administrative workweeks each leave year to care for a family member with a “serious health condition”.
- Limited to *total* of 12 weeks of sick leave for *all* leave family caregivers.



SICK LEAVE TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION

Family member:

- spouse, and parents thereof;**
- children, including adopted children, and spouses thereof;**
- parents;**
- brothers and sisters, and spouses thereof;**
- any individual related by blood or affinity**

DEFINITION

“Serious health condition”: illness, injury, impairment, or physical or mental condition that involves

-inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

1. *Includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer’s disease, pregnancy, and childbirth.*
2. *Does not include bonding with newborn child or care for a healthy newborn child. Once the mother’s period of incapacitation ends, there is no further entitlement to use sick*²⁷

SICK LEAVE FOR ADOPTION



- **Authorizes use of sick leave for purposes**

related to adoption of a child.

- **Includes appointments with adoption agencies,**

LEAVE FOR BONE MARROW OR ORGAN DONATION

- **Entitles employee to 30 days of paid leave per calendar year for organ donation and 7 days for bone marrow donation.**
- **Recorded as excused absence.**
- **Statutory right of the employee.**

DoD Marrow Donor Program:
<http://www.dodmarrow.org/home.htm>

FMLA LEAVE ENTITLEMENT



- **12 Administrative workweeks of unpaid leave during any 12-month period.**
- **“Unpaid Leave” is Leave Without Pay**
- **Employees must invoke entitlement to FMLA leave.**
- **Employee may elect Annual Leave, Sick Leave, or other paid time off, consistent with applicable laws and regulations.**

FMLA LEAVE

~~ENTITLEMENT~~

- Birth & care of newborn child (within 1 year after birth);
- Placement of a child with employee for adoption/foster care (within 1 year after placement);
- Care of spouse/child/parent with serious health condition; or
- Serious health condition of employee that makes employee unable to perform duties of his or her position.

FMLA EMPLOYEE ELIGIBILITY

- **Covered employees:**
 - Employees covered by Title 5.
 - NAF employees.
- **Excluded employees:**
 - Temporaries } NTE 1 Year.
 - Intermittent employees.
- **Service Requirement-12 Months.**
 - Doesn't have to be consecutive.
 - Military service doesn't count.

Important Considerations....

- Employees must invoke entitlement to FMLA.



--If employee or personal representative are incapable of invoking FMLA during the entire period of absence, the employee may retroactively invoke FMLA within 2 days of returning to work (5 CFR 630.1203(b)).

Important Considerations (cont)

- **Intermittent or reduced leave schedule**
 - May be used when medically necessary for serious health condition.
 - May not be used for birth or adoption/foster unless agency and employee agree otherwise
- **Advance notification**
 - Was the situation foreseeable?

Important Considerations (cont)

- Medical documentation within 15 calendar days, but NLT 30 calendar days
- Request 2nd opinion if agency doubts validity
- Request 3rd opinion
 - if 2nd opinion differs from the original
 - 3rd opinion is final and binding



Interaction of Sick Leave and FMLA

- an employee may substitute up to 12 weeks of SL for FMLA LWOP if he/she is caring for a spouse, son/daughter or parent with a serious health condition.
- an employee may use 12 weeks of SL to care for a family member with a serious health condition and then invoke his/her entitlement to FMLA for an additional 12 weeks of unpaid leave (or paid leave) to care for a spouse, son/daughter or parent with a serious health condition.

Family Member: Sick Leave and FML

-Parents of employee;

-Spouse, and parents of spouse;

-children, including adopted children, and spouses thereof;

-brothers and sisters, and spouses thereof;

- any individual related by blood or affinity whose close association with the employee is the equivalent of a family

--Parent of employee, spouse, son and daughter.

--Does not include in-laws (unless *in loco parentis*)

--Parents include *in loco parentis*, which includes an individual who has day to day responsibility for the care and financial support of a child, or who did when the employee was a child. A biological or legal relationship is not

Keep in mind.....

If an adverse action is based on an inappropriate denial of FMLA leave, the action is in violation of statute and may be reversed, 5 USC 7701 (c)(2)(c).



Keep in mind.....(cont)

NOTE: SL use is limited to a total of 12 weeks of sick leave for all leave family care purposes
--includes SL for FMLA purposes: however,
May use AL or LWOP under FMLA in addition to the 12 weeks of sick leave already used under “for a family member with a serious health

EXERCISE TIME!

Case Studies



1. Sammy Heller has been a Supply Clerk in your office for two months, has an enthusiastic attitude and is a competent employee with no history of any leave problems. You notice that Sammy clocks in 20 minutes late on Friday and when you question the tardiness he replies, “I couldn’t get moving this morning”.

A. How would you handle this situation?

B. What if Sammy had been in your office for two years instead of two months?

C. What if Sammy had been in your office for two years and had a habit of taking long lunches, frequently coming in late, and habitually taking unscheduled leave?

2. Art Wolfe, whose wife is due to give birth in several weeks requests four weeks paternity leave, to be charged to his sick leave, beginning the day his wife goes into the hospital.

3. Harry Carpenter has just come to see you and told you in confidence that he has developed a drinking problem, and would like to attend the facility's Employee Counseling Services Program's twice weekly AA meetings. As he has no accrued sick leave, and the meetings take place during Harry's tour of duty, Harry asks you for an hour of LWOP to cover each of the next eight weeks' meetings.

4. Dan Rather's wife calls in and leaves you a voice mail. She lets you know that Dan will be late. When Dan shows up at work two hours late, he hands you his leave request.

--do you approve or disapprove his leave request?

--is not following leave procedures a reason for denying leave?

5. James Mercer was absent for 2 days. When he returned, you requested, but he failed to submit a written application for sick leave within the time limits and in accordance with the procedures set by the organization. You thus charged him with AWOL and since this was his third offense, proposed his removal. Your CPAC advises you that he had a sick leave balance and that he was legitimately ill on the 2 days in question. Therefore, removal would not be appropriate. How do you respond?

6. Laura is a single mother with two children who has worked for the government for 21/2 years. Laura has 201 hours of sick leave and 80 hours of annual leave. Laura's children have problems with recurring ear infections and strep throat and must occasionally be kept home from school and afternoon daycare. How much sick leave can Laura use per year to care for her children?

7. Marie calls her co-worker Alice to let her know she will be 30 minutes late. When Marie shows up at work, her supervisor, Bobby Knight, confronts Marie at her desk and wants to know where she has been. Handing Bobby her leave slip, Marie responds angrily “didn’t Alice tell you I would be late?!”

--do you approve or disapprove her leave request?

--if you approve her request, can you still take disciplinary action?

Tardiness & Attendance Issues: The Absent Employee

OR

**Video Presentation:
Combating Absenteeism**

A video by LRP Publications

Web site: <http://www.lrp.com/>

Setting the Record Straight



- **Employee's responsibility to get to work on time.**
- **Not the supervisor's responsibility to solve the employee's problem.**
- **Supervisor has right to insist that employee come to work on time.**

Dealing with Common Excuses

- **“I’m only a few minutes late”**
- **“My car keep’s breaking down”**
- **“Others come late and you don’t give them a hard time”**
- **“I called in and left you a voice message”**



Dealing with the “Absent Employee”

- **Leave Restriction Letter**
- **Letter of Reprimand**
- **Formal Disciplinary Action**



Leave Restriction Letter



- All sick leave requires medical certificate.
- Spells out in detail leave requesting procedures.
- Opportunity to provide employee with information on all leave programs and requirements.

Leave Restriction Letter (cont)



- **Letter Includes:**
 - Reasons for...**
 - Problems specified**
 - Rules/Expectations specified**
 - Offer of assistance**
 - Consequences/follow-up**